

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

Frist: 29.12-05
Frist: 28.1-06

To:

Wagner Zacco AB
Norra Vallgatan 72
211 22 MALMÖ
Sweden

RECEIVED

2005 -12- 01

Wagner Zacco AB

PCT

WRITTEN OPINION OF THE
INTERNATIONAL PRELIMINARY
EXAMINING AUTHORITY

(PCT Rule 66)

Date of mailing
(day/month/year)

30 -11- 2005

Applicant's or agent's file reference

B 309 PCT

REPLY DUE

within 60 days from
the above date of mailing

International application No.

PCT/SE2004/001626

International filing date (day/month/year)

10.11.2004

Priority date (day/month/year)

11.11.2003

International Patent Classification (IPC) or both national classification and IPC

See Supplemental Box

Applicant

Bone Support AB et al

1. ☒ The written opinion established by the International Searching Authority:

☒ is ☐ is not

considered to be a written opinion of the International Preliminary Examining Authority.

2. This second (first, etc.) opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

3. The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(e).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4bis.
For an informal communication with the examiner, see Rule 66.6.
For an additional opportunity to submit amendments, see Rule 66.4.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary report on patentability (Chapter II of the PCT) must be established according to Rule 69.2 is:

11.03.2006

Name and mailing address of the IPEA/SE

Patent- och registreringsverket
Box 5055
S-102 42 STOCKHOLM

Facsimile No. 46 8 667 72 88

Authorized officer

08/ 782 2837

Leif Brander/EK

Telephone No. 46 8 782 25 00

WRITTEN OPINION OF THE
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

International application No.

PCT/SE2004/001626

Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of:



the international application in the language in which it was filed



a translation of the international application into _____,
which is the language of a translation furnished for the purposes of:



international search (Rules 12.3(a) and 23.1(b))



publication of the international application (Rule 12.4(a))



international preliminary examination (Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this opinion has been established on the basis of *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed.")*:



the international application as originally filed/furnished



the description:

pages _____ as originally filed/furnished

pages _____ received by this Authority on _____

pages _____ received by this Authority on _____



the claims:

pages _____ as originally filed/furnished

pages _____ as amended (together with any statement) under Article 19

pages _____ received by this Authority on _____

pages _____ received by this Authority on _____



the drawings:

pages _____ as originally filed/furnished

pages _____ received by this Authority on _____

pages _____ received by this Authority on _____



a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:



the description, pages _____



the claims, Nos. _____



the drawings, sheets/figs _____



the sequence listing *(specify)*: _____



any table(s) related to the sequence listing *(specify)*: _____

4. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).



the description, pages _____



the claims, Nos. _____



the drawings, sheets/figs _____



the sequence listing *(specify)*: _____



any table(s) related to the sequence listing *(specify)*: _____

WRITTEN OPINION OF THE
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

International application No.

PCT/SE2004/001626

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 53-58

because:

☒ the said international application, or the said claims Nos. 53-58
relate to the following subject matter which does not require an international preliminary examination (*specify*):

See PCT Rule 67.1.(iv): Methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods.

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____
are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. _____ are so inadequately supported
by the description that no meaningful opinion could be formed (*specify*):

☐ no international search report has been established for said claims Nos. _____

☐ a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

☐ furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it.

☐ furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it.

☐ pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13ter.1(a) or (b) and 13ter.2.

☐ a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-bis of the Administrative Instructions, and such tables were not available to the International Preliminary Examining Authority in a form and manner acceptable to it.

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in the Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details.

WRITTEN OPINION OF THE
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

International application No.

PCT/SE2004/001626

Box No. V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	<u>2-3, 5-11, 16-22, 25-33, 37-43, 48-50</u>
	Claims	<u>1, 4, 12-15, 23-24, 34-36, 44-47, 51-52</u>
Inventive step (IS)	Claims	<u>2-3, 5-11, 16-22, 25-33, 37-43, 48-50</u>
	Claims	<u>1, 4, 12-15, 23-24, 34-36, 44-47, 51-52</u>
Industrial applicability (IA)	Claims	<u>1-52</u>
	Claims	

2. Citations and explanations:

Cited documents of particular relevance:

D1: US 6248110 B1

D2: EP 1132061 A2

D1 shows a device for providing spongy bone with bone substitute, according to claim 1, with a perforating device (76, figure 5H) for making a hole in the spongy bone and with a flushing device (column 9, lines 4-7) for flushing the hole. A vacuum source (86) is provided for generating a vacuum in the hole for sucking and facilitation insertion of the bone substitute (96) into said spongy bone. D2 also shows a device according to claim 1 (see figures 2 and 6).

The device according to claim 1 therefore is known from D1 and D2. Consequently, the invention defined in claim 1 lacks novelty and inventive step.

The arrangements according to claims 4, 12-15, 23-24, 34-36, 44-47 and 51-52 are also previous known from D1 or D2. Consequently, claims 4, 12-15, 23-24, 34-36, 44-47, 51-52 also lack novelty and inventive step.

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International application No.

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.
Continuation of: Cover sheet

A61F 2/46 (2006.01)